

TATINTL

SPEED LETTER

REPLY REQUESTED

DATE

19 Sept 1978

YES

NO

LETTER NO.

OLC: 78-3037/1

TO :

ATTN:

FROM:

STATINTL

REGISTRY

FILE *Comm 17*

Sid:

This is the question from the Senate Ethics Subcommittee that I spoke to you about yesterday. I would like to get together with you and OGC tomorrow (Wednesday). I will give you a call.

STATINT

SIGNATURE

REPLY

DATE

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SIGNATURE

ETHICS SUBCOMMITTEE SENSITIVE

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## MEMORANDUM

60-478-3637

STATINTL:

[Redacted]  
Deputy Legislative Counsel  
Central Intelligence Agency

FROM: *Donald G. Sanders*  
Donald G. Sanders  
Special Counsel, Senate Select Committee  
on Ethics Subcommittee

DATE: September 18, 1978

SUBJECT: Inquiry Concerning Permissibility of Making  
Classified Data Available to Attorneys who  
Represent Individual to be Questioned by the  
Senate Ethics Committee.

The purpose of this memorandum is to formalize the question which has been the subject of discussion over the past several days.

As you know, the Morgan-Schmitt Subcommittee of the Senate Select Committee on Ethics has been conducting an inquiry to determine whether there is any culpability on the part of any Senator or employee of the Senate for unauthorized disclosures which resulted from an oil production study made by the Senate Intelligence Committee. The Subcommittee staff has conducted numerous interviews over the past several months. One of the persons interviewed in February was interviewed again in August. Because of a conflict in schedule, the August interview could not be completed, and it was intended to be resumed at a later date. It has not yet been re-scheduled; however, the subject of that interview has engaged two attorneys to represent him in the matter.

During a preliminary meeting between these attorneys and our staff, the attorneys expressed a need to have access to the staff report of the February interview and the transcript (verbatim) of the

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August interview. These documents, of course, reflect the incorporation of classified information in many questions and answers. While the attorneys have not yet requested additional documents, it can reasonably be expected that if they are granted access to the initial request, they will then ask to see still other classified documents such as the Intelligence Committee's oil study and related memoranda.

No classified material or information has as yet been provided to the attorneys. The Subcommittee intends to take sworn testimony from this subject, on a voluntary basis if possible and by subpoena if necessary. In doing so, it will undoubtedly be confronted by demands of the attorneys for the access reviewed above. The Subcommittee might be hard pressed, in fairness, to insist upon the witness's testimony without providing document access, especially when the questions will involve earlier statements by the witness.

In addition to our discussions, I have discussed this matter informally with Mr. Robert Keuch of the Department of Justice (Deputy Assistant Attorney General, Criminal Division). The Department, of course, occasionally faces this problem during prosecutions. I understand that a system is developed for FBI background investigation to insure the reliability of the attorneys, and that some type of non-disclosure agreement is utilized. We can, of course, ask the Justice Department in this instance to make appropriate background checks. But the fundamental question to be resolved is whether C.I.A., on behalf of the intelligence community, will consent to access by these attorneys, and if so, under what conditions.

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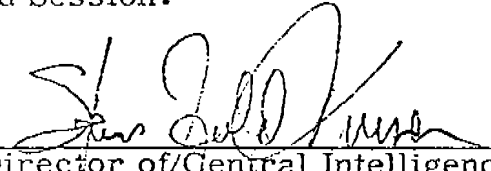
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I would be pleased to provide any further details which might be of help in this matter. Your prompt response would be appreciated in view of the nearness of adjournment.

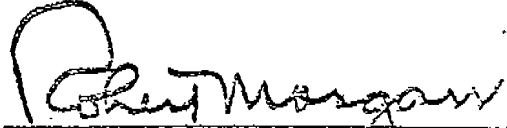
11. If at any time the Subcommittee determines that it wishes to make public any classified information, any information which constitutes intelligence sources or methods, or any information that would tend to confirm the authenticity of the information involved in an unauthorized disclosure, either as an official Subcommittee action or pursuant to the nondisclosure agreement executed by Subcommittee personnel, the Subcommittee will notify the DCI in writing. The DCI shall respond in writing within five working days after receipt of such a communication. If the DCI objects to public disclosure,

representatives of the DCI and the Subcommittee will meet and attempt to resolve the matter. If these representatives are unable to resolve all points at issue, those remaining points will be taken up by the Chairman of the Senate Select Committee on Ethics and the DCI. If issues still remain following discussion between the Chairman and the DCI, the Chairman will forward these issues to the Senate Select Committee on Intelligence for resolution pursuant to Section 8 of Senate Resolution 400, 94th Congress, 2d Session.

  
Director of Central Intelligence

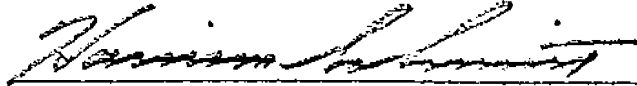
24 April 1978

Date

  
Chairman, Senate Select Committee  
on Ethics Subcommittee

4-26-78

Date

  
Vice-Chairman, Senate Select  
Committee on Ethics Subcommittee

23 April 1978

Date